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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/809,676

03/26/2004

Jian Gu

60091.00282

7872

32294 7590 11/14/2008
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EXAMINER

YUN, EUGENE

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

11/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/809,676 | Applicant(s) GU ET AL. | |
| | Examiner EUGENE YUN | Art Unit 2618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/17/2008 has been entered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 30 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 30 fails to fall within a statutory category of invention. It is directed to the computer program itself, not a process occurring as a result of executing the program, a machine programmed to operate in accordance with the program nor a manufacture structurally and functionally interconnected with the program in a manner which enables the program to act as a computer component and realize its functionality. It's also clearly not directed to a composition of matter. Therefore it is non-statutory under 35 USC 101.

Claim Rejections - 35 USC § 102

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Jonsson (US 7,162,262).

Referring to Claim 1, Jonsson teaches a method comprising:

determining a quality of a received coding block (see col. 8, lines 51-54);

storing samples of differences between a measured signal-to-interference ratio (SIR) value and a target SIR value (see col. 3, lines 14-19);

adjusting the target SIR value based on values of the samples of the differences between the measured SIR value and the target SIR value, and the quality of the received coding block (see col. 11, lines 57-64); and

providing a transmit power control command based on the adjusted target SIR value to the user equipment (see col. 2, lines 36-44).

Claims 15 and 29 have similar limitations as claim 1.

Referring to Claims 2 and 16, Jonsson also teaches adjusting the target SIR value by reducing the target SIR value by a predetermined down step value when decoding of the received coding block succeeds, and a difference of the differences between the measured SIR value and the SIR target value is smaller than a threshold that is defined for the measured SIR value minus the target SIR value for a fraction of time slots (see col. 3, lines 19-28).

Referring to Claims 3 and 17, Jonsson also teaches adjusting the target SIR value by reducing the target SIR value by a predetermined down step value when decoding of the received coding block succeeds, and a sum of the differences between the measured SIR value and the target SIR value is smaller than a negative value threshold that is defined for the measured SIR value minus the target SIR value (see col. 3, lines 19-28).

Referring to Claims 4 and 18, Jonsson also teaches the adjust target SIR value greater than or equal to a local minimum target SIR value (see col. 3, lines 32-40).

Referring to Claims 5 and 19, Jonsson also teaches adjusting the target SIR value by adding a target SIR value up step value to the target SIR value when decoding of the received coding block fails and a difference of the differences between the measured SIR value and the SIR target value is smaller than a threshold that is defined for the measured SIR value minus the target SIR value for a fraction of time slots (see col. 3, lines 32-40).

Referring to Claims 6 and 20, Jonsson also teaches adjusting the target SIR value by adding a target SIR value up step value when decoding of the received coding block fails and a sum of the differences between the measured SIR value and the target SIR value is smaller than a negative value threshold that is defined for the measured SIR value minus the target SIR value (see col. 3, lines 32-40).

Referring to Claims 7 and 21, Jonsson also teaches up step target SIR value comprising a negative, positive or zero value (see col. 7, lines 1-3).

Referring to Claims 8 and 22, Jonsson also teaches the adjusted target SIR value greater than or equal to a local minimum target SIR value and smaller than or equal to a local maximum target SIR value (see col. 3, lines 32-40).

Referring to Claims 9 and 23, Jonsson also teaches adjusting the target SIR value by reducing the target SIR value by a predetermined target SIR down step value of outer loop power control when decoding of the received coding block succeeds and a difference of the differences between the measured SIR value and the SIR target value is larger than a threshold that is defined for the measured SIR value minus the target SIR value for a fraction of time slots (see col. 7, line 64 to col. 8, line 5).

Referring to Claims 10 and 24, Jonsson also teaches adjusting the target SIR value by reducing the target SIR value by a predetermined target SIR down step value of outer loop power control when decoding of the received coding block succeeds and a sum of the differences between the measured SIR value and the target SIR value is larger than a negative value threshold that is defined for the measured SIR value minus the target SIR value (see col. 7, line 64 to col. 8, line 5).

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Referring to Claims 11 and 25, Jonsson also teaches the adjusted target SIR value greater than or equal to a global minimum target SIR value (see col. 3, lines 32-40).

Referring to Claims 12 and 26, Jonsson also teaches adjusting the target SIR value by adding a target SIR up step value of outer loop power control to the target SIR value when decoding of the received coding block fails and a difference of the differences between the measured SIR value and the SIR target is larger than a threshold that is defined for the measured SIR value minus the target SIR value for a fraction of time slots (see col. 3, lines 32-40).

Referring to Claims 13 and 27, Jonsson also teaches adjusting the target SIR value by adding a target SIR up step value of outer loop power control to the target SIR value when decoding of the received coding block fails and a sum of the differences between the measured SIR value and the target SIR value is smaller than a negative value threshold that is defined for the measured SIR value minus the target SIR value (see col. 3, lines 19-28).

Referring to Claims 14 and 28, Jonsson also teaches the adjusted target SIR value is smaller than or equal to a local maximum target SIR value (see col. 7, line 64 to col. 8, line 5).

Response to Arguments

5. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EUGENE YUN whose telephone number is (571)272-7860. The examiner can normally be reached on 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571)272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eugene Yun
Examiner
Art Unit 2618

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